

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

TIMOTHY ENGRAM, #289-716

Petitioner,

*

v.

CIVIL ACTION NO. RWT-09-2130

*

WARDEN,

Respondent.

*

MEMORANDUM OPINION

Petitioner seeks assistance in obtaining documents from his state criminal proceedings.

Paper No. 1. Although Petitioner has not filed a Motion for Leave to Proceed in Forma Pauperis, because he appears indigent, indigency status shall be granted pursuant to 28 U.S.C. § 1915(a).

Because Petitioner seeks to compel a certain action by the state and/or its agents, the Court concludes that the present matter is in the nature of a writ of mandamus. See 28 U.S.C. § 1361. Federal district courts have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or one of its agencies to perform a duty owed to a petitioner. However, a federal district court has no mandamus jurisdiction over state employees and cannot compel the Maryland state courts to provide Petitioner a copy of his trial transcript.¹ See Gurley v. Superior Court of Mecklenburg County, 411 F.2d 586, 586-87 (4th Cir. 1969). Therefore, Petitioner's request for mandamus relief shall be denied.

Petitioner also references his state post-conviction proceedings. Petitioner is advised that should he wish to seek this Court's review of his state court conviction under 28 U.S.C. 2254,

¹Petitioner is, of course, free to request copies of the documents he seeks from the appropriate state or county facility. He should contact the state court and police agency that investigated the crime to obtain further instructions on how to seek copies of documents and how to file a Maryland Public Information request.

there is a one-year statute of limitations under 28 U.S.C. § 2244(d)² for doing so. The Clerk shall be directed to provide Petitioner a form packet for filing a Petition for Writ of Habeas Corpus under 28 U.S.C. 2254.

A separate Order shall be entered reflecting the Opinion set forth herein.

September 1, 2009

/s/
ROGER W. TITUS
UNITED STATES DISTRICT JUDGE

²This section provides:

- (1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of:
 - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.
- (2) the time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.